

REMARKS

Claims 33 and 47 have been amended to correct a typographical error. No new claims have been added. Claims 1-23, 36, 39, 48-52 and 58-60 have been canceled without prejudice. No new matter has been introduced. Claims 24-35, 37-38, 40-47, 53-57 and 61-63 are currently pending.

Claims 24-29, 31-34, 37-38, 40-43, 45-47, 53-56 and 61-63 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,744,993 ("Bisson").

Claims 30 and 44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bisson in view of U.S. Patent No. 3,989,853 ("Forkner").

Consideration of the Declaration prior to Applicant's arguments below is respectfully requested.

Independent Claim 61 and Dependent Claims 24-35 and 53-55

Bisson does not teach or suggest, among other things, "passing an expanded foodstuff composition, which is in a plastic state and is therefore capable of further expansion or contraction, at a first temperature and a first pressure into a setting region at a second temperature, said second temperature being lower than said first temperature; and cooling and setting said expanded foodstuff composition which is to be set in the setting region at a second pressure which is lower than said first pressure, whereby to produce a set expanded foodstuff."

As a basis for rejecting claim 61, the Examiner recites "that the paste [in Bisson] has a certain temperature because the material is heated inside the extruder; this is equivalent to the first temperature. As the paste exists [sic] the extruder, it comes out; thus, the pressure is changed to atmospheric pressure. This is equivalent to the first pressure. ... As the material exists [sic] the extruder, the composition would still have the temperature it is heated to inside the extruder because no cooling takes place. The paste is then passed into an enclosure where a subatmospheric pressure prevails. This is equivalent to the claimed setting region. It would have been obvious to make the temperature here lower because Bisson et al disclose the temperature falls to cause puffing and rigidification of the cellular structure." Office action at Page 3, ¶ 1. According to the Examiner, this is evidence that Bisson's foodstuff comprises the claimed first temperature, first pressure, second temperature and second pressure where the

second temperature is lower than the first temperature and the second pressure is lower than the first pressure.

As noted in the last Response dated June 13, 2006 and supported by the Declaration, Bisson does not disclose an expanded or partially expanded foodstuff composition that is passed from a region at T_1 and P_1 to a setting region at T_2 and P_2 , where $T_1 > T_2$ and $P_1 > P_2$. It is “highly improbable” that Bisson extrudes “into an atmospheric pressure region with subsequent passage through the sub-atmospheric environment/chamber” as suggested by the Examiner. Declaration at pp. 2-3, ¶ 5. According to Bisson, “[t]he strand issuing from the nozzle may be cut up, for example, by means of a rotary cutter. Particles resembling rodlets, pellets or chips may be obtained, depending on the rotational speed of the cutter and its proximity to the nozzles bores. *The particles thus obtained drop to the bottom of the puffing enclosure*, for example, onto a vibrating baseplate, and may be conveyed through an airlock.” Declaration at p. 3 (quoting Bisson at Col. 3, lines 35-42). “This wording clearly implies that the extrudate passes directly into the expansion chamber operating at sub-atmospheric pressure. Whilst there is a later reference to the extruder strand being discharge into a space where atmospheric pressure prevails, it is clear ... that the operating conditions required for the unique puffing process could not be maintained in this situation and a different, denser product would result.” Declaration at p. 3.

“If the extrudate is passed into atmospheric conditions, there is a degree of decompression occurring as the pressure built up through the die (nozzle) is released. This will result in some expansion and also some product cooling due to the evaporation of some of the product moisture. These phenomena are not unique to this process and are the basis for pretty much all conventional extrusion processes. However, to achieve a reduction of 40 to 50% of the water present in the material and to achieve significant puffing, in my view, could only result from passing the extrudate directly into a sub-atmospheric chamber taking advantage of the initial product temperature as it exits the die and accentuating the differential pressure to achieve the level of expansion required.” Declaration at pp. 3-4.

Consequently, independent claim 61 and dependent claims 24-35 and 53-55 are allowable. Allowance of these claims is respectfully requested.

Independent Claim 62 and Dependent Claims 37-38, 40-47 and 56

For the same and similar reasons presented with respect to claim 61 and for the reasons presented in the Declaration, Bisson does not teach or suggest, among other things, “passing a foodstuff composition which is in at least a partially expanded condition and in a plastic state and is therefore capable of further expansion or contraction and which contains a vaporisable expanding agent, at a first temperature and a first pressure into a setting region at a second temperature, said second temperature being lower than said first temperature; and cooling and setting said foodstuff composition which is to be set in the setting region at a second pressure which is lower than said first pressure so as to further expand the foodstuff composition by evaporation of the vaporisable expanding agent and produce a set expanded foodstuff.”

Consequently, independent claim 62 and dependent claims 37-38, 40-47 and 56 are allowable. Allowance of these claims is respectfully requested.

Independent Claim 63 and Dependent Claim 57

For the same and similar reasons presented with respect to claim 61 and for the reasons presented in the Declaration, Bisson does not teach or suggest “passing a foodstuff composition which is in at least a partially expanded condition and in a plastic state and is therefore capable of further expansion or contraction and which contains a vaporisable expanding agent, at a first temperature and substantially atmospheric pressure into a setting region at a second temperature, said second temperature being lower than said first temperature; and cooling and setting said foodstuff composition which is to be set in the setting region at a pressure which is lower than atmospheric pressure so as to further expand the foodstuff composition by evaporation of the vaporisable expanding agent and produce a set expanded foodstuff.”

Consequently, independent claim 63 and dependent claim 57 are allowable. Allowance of these claims is respectfully requested.

CONCLUSION

In view of the foregoing, claims 24-35, 37-38, 40-47, 53-57 and 61-63 are allowable. Reconsideration and allowance of claims 24-35, 37-38, 40-47, 53-57 and 61-63 are respectfully requested. The Examiner is encouraged to contact the undersigned at the number listed below with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Hartwig', with a stylized flourish extending from the end.

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